



November 2, 2010

Federal Communications Commission
Office of the Secretary
Marlene H. Dortch
445 12th Street SW
Washington, DC 20554

Subject: **CC Docket 02-6, Request for Waiver**
Applicant Name: Val Verde Unified School District
Billed Entity Number: 143757
Form 471 Application Number: 669772, 670837, 670865, 670925, 688935 and 689705
Form 486 Application Number: 766987
Funding Request Number(s): 1875803, 1888464, 1880262, 1876312, 1886696 and 1889209

Dear Sir or Madam:

This letter is a Request for Waiver of the Service Start Date on the Form 486 Notification Letter for Val Verde Unified School District, in response to the Denial letters issued by USAC's Administrator's Decision on Appeal dated September 7, 2010 and September 9, 2010. The appeal to USAC was filed in response to a "Form 486 Notification Letter" where the Service Start Date on the Notification letter for all FRNs was adjusted from 07/01/2009 to 03/17/2010. The explanation states "120-DAY 486 DEADLINE."

Val Verde Unified School District is asking the FCC for a waiver of its rules based upon the following extenuating circumstances which made it difficult to impossible for the applicant to file its Form 486 by the associated deadline. On July 1, 2009 the Information Technology department secretary left the district. Her primary job was to assist the Director of Information Technology and handle the day-to-day coordination of department services for 20 schools and 3 non-instructional facilities with a student base of 19,000+. Besides her primary job, she was also responsible for all of the E-rate paperwork and associated deadlines. Due to state and local budget cuts, this position has **not** been replaced. Consequently, the district did not have a person that could take on the permanent responsibility of tracking deadlines and filing forms.

In July of 2010, the district hired an E-rate consultant to do these responsibilities. The consultant then filed the Form 486 for Funding Year 2009, and it was late. Due to the hardship the district experienced during Funding Year 2009 by not having a permanent employee responsible for directly managing its E-rate processes, which were a consequence of state budget cuts out of the District's control, we are asking for the FCC to offer relief to the district and allow the service start date go back to July 1, 2009.

In the ***Alaska Gateway and Alcona County Library decisions***, the FCC has found that "complete rejection of the applications is not warranted, given that the applicants missed a USAC procedural deadline and did not violate a Commission Rule..."¹ More recently in ***Children of Peace School*** decision, the FCC further stated "While

¹ See *Request for Review of the Decision of the Universal Service Administrator by Alaska Gateway School District, Tok, AK, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-412028, et al., CC Docket No. 02-6, Order, 21 FCC Rcd 10182 (Wireline Comp. Bur. 2006) (*Alaska Gateway School District*) (finding good cause to waive USAC's deadline for FCC Form 486 for several applicants); See *Requests for Waivers of the*

procedural deadlines are necessary to maintain the efficient administration of the application process, as the Commission noted in *Bishop Perry*, a departure from required filing deadlines may be warranted upon careful review of the petitioner's case and when doing so will serve the public interest. Generally these applicants claim that staff mistakes or circumstances beyond their control resulted in missing the FCC Form 486 deadline."²

In the ***Alaska Gateway*** order, the FCC stated that a "waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule."³ Val Verde Unified School District believes that the above explanation illustrates special circumstances and thus should warrant a waiver of the 120 day rule. The District respectfully requests that USAC change the Service Start Date to 07/01/2009 because of extenuating circumstances specific to the District.

Reduction of funding in this case would inflict undue hardship on the District. The District relies upon Universal Service funds for support of essential Broadband connectivity and communications services. Without these funds, the District will be forced to use its General Funds to pay for these services, funds which could be used for teachers' salaries and other critical education functions. As noted in ***Children of Peace School***, "...granting these appeals should have minimal effect on the Universal Service Fund because the monies needed to fund these requests, should they all be funded, have already been collected and held in reserve."⁴

Respectfully Submitted,



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Enclosure: *Val Verde CSM LOA.pdf*
 Val Verde USAC FY 2009-2010 Administrator's Decision on Appeal Denials.pdf

Decisions of the Universal Service Administrator by Alcona County Library, Harrisville, Michigan, et al., Schools and Libraries Universal Service Support Mechanism, File Nos. SLD-425479, et al., CC Docket No. 02-6, Order, 23 FCC Rcd 15500 (Wireline Comp. Bur. 2008) (*Alcona County Library*) (finding good cause to waive USAC's deadline for FCC Form 486 for several applicants).

² *Children of Peace School* para. 7; *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-487170, et al., CC Docket No. 02-6, Order, 21 FCC Rcd 5316, para. 9 (2006) (*Bishop Perry*).

³ *Alaska Gateway Order* para. 5, *Northeast Cellular*, 897, F.3d at 1166.

⁴ *Children of Peace School* para. 7; We estimate that the appeals granted in this Order involve applications for approximately \$2.4 million in funding. We note that USAC has already reserved sufficient funds to address outstanding appeals. See, e.g., Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Third Quarter 2010 (Apr. 30, 2010). Thus, we determine that the action we take today should have a minimal impact on the universal service fund as a whole.